

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

SALEHOO GROUP LTD., a New Zealand
Limited Liability Company,

Plaintiff,

v.

ABC COMPANY, an entity of unknown
origin and/or JOHN DOE, individually,

Defendants.

Civil Action No. 10-CV-671

SALEHOO GROUP LTD.'S MOTION
FOR LEAVE TO TAKE IMMEDIATE
DISCOVERY

NOTE ON MOTION CALENDAR:
April 20, 2010

Plaintiff SaleHoo Group Ltd. ("SaleHoo") respectfully requests that the Court grant leave to serve early subpoena discovery pursuant to Federal Rule of Civil Procedure 45 on GoDaddy.com, Inc. and Domains by Proxy, Inc. to discover the owner identity and account information associated with the offending domain name *salehoosucks.com* and corresponding Internet website www.salehoosucks.com.

I. FACTS


SaleHoo has brought suit against the owner of the domain name *salehoosucks.com* and corresponding Internet website www.salehoosucks.com for trademark infringement and false designation of origin and federal unfair competition and defamation. For purposes of its complaint, SaleHoo identified the defendants using ABC Company and John Doe, mere place

MOTION FOR LEAVE TO TAKE IMMEDIATE
DISCOVERY - 1

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SALE-6-1001P02MOT

BLACK LOWE & GRAHAM ^{PLLC}


701 Fifth Avenue, Suite 4800
Seattle, Washington 98104
206.381.3300 • F: 206.381.3301

1 holders, because the identity and contact information of the domain name and website owner was
2 unknown to SaleHoo. ABC Company is an entity of unknown type and origin and John Doe is an
3 individual of unknown citizenship and residence. As asserted in the complaint, on information
4 and belief, one or both defendants own and/or control the domain name *salehoosucks.com* and
5 corresponding Internet website www.salehoosucks.com, including the development and
6 publication of the www.salehoosucks.com website, its content and related business and
7 commerce.

8 The identity of the owner of the *salehoosucks.com* domain name and associated website
9 has been unsuccessfully sought by SaleHoo and is presently shielded from disclosure by the
10 domain name registrar GoDaddy.com, Inc. and Domains by Proxy, Inc., which has listed itself as
11 the registrant as part of its anonymous domain name service. According to its website
12 “Civil Subpoena Policy,” GoDaddy.com, Inc. is headquartered at 14455 North Hayden Road,
13 Suite 219, Scottsdale, Arizona 85260. According to publicly accessible Whois administrative
14 contact records, Domains by Proxy, Inc. is located at 15111 North Hayden Road, Suite 160,
15 Scottsdale, Arizona 85260. It is the policy of the registrar, GoDaddy.com, Inc., not to disclose
16 identity or account information absent service of legal process. Domains by Proxy, Inc. has
17 likewise refused to provide the identity of the owner of the *salehoosucks.com* domain name
18 absent service of legal process.

19 Accordingly, SaleHoo seeks the Court’s leave to immediately issue subpoenas to both
20 GoDaddy.com, Inc. and Domains by Proxy, Inc. to pursue identity and account information via
21 legal process. SaleHoo will use this information to amend the complaint to identify the correct
22 defendant(s). This information may also be otherwise relevant to SaleHoo’s claims or reasonably
23 calculated to lead to the discovery of admissible evidence.

24 II. QUESTION PRESENTED

25 Whether the Court should allow the immediate issuance of subpoenas from SaleHoo to
26 GoDaddy.com, Inc. and Domains by Proxy, Inc. in order to obtain identity and account

1 information regarding the defendant(s) in this action, namely, the owner(s) of the domain name
2 *salehoosucks.com* and corresponding Internet website www.salehoosucks.com?

3 III. EVIDENCE RELIED UPON

4 This motion is based on the complaint and supporting Declaration of David A. Lowe,
5 filed and served herewith.

6 IV. LEGAL ANALYSIS

7 Federal Rule of Civil Procedure (Fed. R. Civ. Pro.) 26(b)(1) allows parties to obtain
8 discovery of “any nonprivileged matter that is relevant to any party’s claim or defense,” and states
9 that “[r]elevant evidence need not be admissible at the trial if the discovery appears reasonably
10 calculated to lead to the discovery of admissible evidence.” Fed. R. Civ. Pro. 45(a)(1)(D) allows
11 parties to serve a subpoena requiring the production or allowing the inspection, copying, etc. of
12 documents, electronically stored information, or other tangible things.

13 SaleHoo seeks to discover the identity and account information regarding the defendant(s)
14 in this action, namely, the owner(s) of the domain name *salehoosucks.com* and corresponding
15 Internet website www.salehoosucks.com. SaleHoo has asserted claims for trademark
16 infringement and false designation of origin and federal unfair competition and defamation
17 against the owners of the domain name and website, but has been unable to conclusively identify
18 the defendants because the information has been shielded by the third party registrar and
19 registrant. Immediate subpoenas to the third party registrar and registrant are necessary to allow
20 SaleHoo to amend its complaint to identify the proper defendants, as well as to facilitate service
21 and further prosecution of SaleHoo’s claims against the offending parties.

22 For the reasons set forth above, SaleHoo respectfully requests that the Court order that
23 SaleHoo may issue subpoenas to GoDaddy.com, Inc. and Domains by Proxy, Inc. to compel the
24 identification and account information of the owner(s) of the domain name *salehoosucks.com*
25 and corresponding Internet website www.salehoosucks.com. A proposed Order is submitted
26 herewith.

1 RESPECTFULLY SUBMITTED this 20th day of April, 2010.

2
3 /David A. Lowe/, WSBA No. 24,453

4 Email: lowe@blacklw.com

5 Lawrence D. Graham, WSBA No. 25,402

6 Email: graham@blacklaw.com

7 BLACK LOWE & GRAHAM^{PLLC}

8 701 Fifth Avenue, Suite 4800

9 Seattle, WA 98104

10 T: 206.381.3300

11 F: 206.381.3301

12 Attorneys for SaleHoo Group Ltd.

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